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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,084	04/30/2001	John Mantegna	06975-207001	1606
26171	7590	10/20/2005	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			LAZARO, DAVID R	
			ART UNIT	PAPER NUMBER
			2155	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/845,084

Applicant(s)

MANTEGNA ET AL.

Examiner

David Lazaro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/30/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment filed 08/01/05.
2. Claims 1-23 are pending in this office action.

Response to Arguments

3. Applicant's arguments, see page 2 of the Remarks, filed 08/01/05, with respect to the rejection(s) of claim(s) 1-23 under §103(a), as obvious over Ward in view of Soques, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. Particularly, the examiner agrees that Soques does not teach or suggest modifying the number of samples in a playback data block. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent 6,598,172 by VanDeusen et al.

Information Disclosure Statement

4. The information disclosure statement (IDS) submitted on 07/30/2002 has been considered by the examiner.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 5, 6, 10-12, 14, 15, 17-19, 21 and 22 are rejected under 35

U.S.C. 102(e) as being anticipated by U.S. Patent 6,598,172 by VanDeusen et al.

(VandDeusen).

7. With respect to Claims 1, 10 and 17, VanDeusen teaches a method for temporal drift correction in a real-time electronic communication comprising:

measuring a size of a receiving data buffer (Col. 4 lines 35-62);

comparing the measured size to predetermined nominal data buffer size (Col. 4 lines 35 – Col. 5 line 35);

determining an amount of temporal drift based on the comparison of the measured data buffer size an the nominal data buffer size (Col. 4 lines 35 – Col. 5 line 35);

determining a number of samples to be inserted in or removed from a playback data block to correct the temporal drift (Col. 7 lines 18-53); and

modifying the number of samples in the playback data block to correct the temporal drift (Col. 7 lines 33-53).

8. With respect to Claims 2, 11 and 18, VanDeusen teaches all the limitations of Claims 1, 10 and 17 respectively, wherein the number of samples is modified without introducing audible artifacts (Col. 7 lines 54-65).

9. With respect to Claims 3, 12 and 19, VanDeusen teaches all the limitations of Claims 1, 10 and 17 respectively, wherein measuring the size of the receiving data

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buffer comprises measuring an instantaneous size of the receiving data buffer (Col. 4 lines 35 – Col. 5 line 35).

10. With respect to Claims 5, 14 and 21, VanDeusen teaches all the limitations of Claims 1, 10 and 17 respectively, wherein the real-time electronic communication includes an audio communication (Col. 2 lines 30-38).

11. With respect to Claims 6, 15 and 22, VanDeusen teaches all the limitations of Claims 5, 14 and 21 respectively, wherein modifying the number of samples comprises performing resampling of the playback data block (Col. 7 lines 33-53).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 4, 13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanDeusen and Official Notice.

14. With respect to Claims 4, 13 and 20, VanDeusen teaches all the limitations of Claims 3, 12 and 19 respectively, and further teaches measuring an instantaneous communication delay associated with the receiving data buffer two or more times (Col. 4 line 49 – Col. 5 line 35).

VanDeusen does not explicitly disclose averaging the measurements. However, the examiner takes official notice that averaging of measurements is well known in the art.

As such, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of VanDeusen and modify them such that they further comprise averaging the measurements. One would be motivated to have this, as it is well known in the art.

15. Claims 7-9, 16 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanDeusen in view of "Skew detection and compensation for Internet audio applications" by Hodson et al., ICME 2000, July 2000, Vol. 3 (hereinafter Hodson).

16. With respect to Claims 7, 16 and 23, VanDeusen teaches all the limitations of Claims 6, 15 and 22 respectively, and further teaches analyzing multiple consecutive samples of audio data in the playback data block; and adjusting the number of samples (Col. 7 lines 33-53).

VanDeusen does not explicitly disclose identifying consecutive samples with minimal variation in a parameter of their data and adjusting the identified consecutive samples. Hodson teaches identifying consecutive samples with minimal variation in a parameter of their data and adjusting the identified consecutive samples (Page 2, section 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of VanDeusen and modify them as indicated by Hodson such that they further comprises identifying consecutive samples with minimal variation in a parameter of their data and adjusting the number of samples in the identified consecutive samples. One would have been motivated to have this, as this reduces the costs of adjusting the number of samples (In Hodson: Page 2, section 3, particularly paragraph 3).

17. With respect to Claim 8, VanDeusen in view of Hodson teaches all the limitations of Claim 7, wherein adjusting the number of samples comprises removing a sample from the identified consecutive samples (In VanDeusen: Col. 7 lines 33-53) and (In Hodson: Page 2, section 3).

18. With respect to Claim 9, VanDeusen in view of Hodson teaches all the limitations of Claim 7, wherein adjusting the number of samples comprises adding a sample to the identified consecutive samples (In VanDeusen: Col. 7 lines 33-53) and (In Hodson: Page 2, section 3).

Conclusion


19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

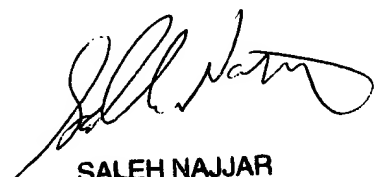
20. EP 0987894A2 by Jinghong, "A dejittering and clock recovery technique for real-time audio/visual network applications", March 22, 2000. Discloses dejittering and clock recovery processes including monitoring of a buffer size to determine a drift rate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David Lazaro
October 14, 2005


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER